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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,963	08/02/2001	Yoshihiro Chikami	401232/MIURA	2611
7590 08/14/2006				
Leydig, Voit & Mayer, Ltd. Two Preudential Plaza Suite 4900 180 North Stetson Avenue Chicago, IL 60601-6780		EXAMINER GEORGE, KONATA M		
		ART UNIT 1616 PAPER NUMBER		

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/857,963	<b>Applicant(s)</b> CHIKAMI ET AL.	
	<b>Examiner</b> Konata M. George	<b>Art Unit</b> 1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on August 19, 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17 and 19-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 17 and 19-30 are pending in this application.

#### ***Request for Continued Examination (RCE)***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 3, 2005 has been entered.

#### ***Action Summary***

2. Examiner acknowledges the cancellation of claim 18.
3. The rejection of claims 17 and 19-30 under 35 U.S.C. 103(a) over Tadao et al. is being maintained for the reasons stated in the office action dated March 3, 2005.
4. The rejection of claims 17, 19-27, 29 and 30 under 35 U.S.C. 103(a) over Murayama et al. is being maintained for the reasons stated in the office action dated March 3, 2005.

#### ***Response to Arguments***

5. Applicant's arguments filed August 19, 2005 have been fully considered but they are not persuasive.

Applicant argues that the prior art references do not teach the coated biologically active particles having a concentration of the volatile substance of 500 ppm or less, wherein the concentration contained in the hot draft less than 1 ppm. It is the position of the examiner that Tadao et al. teaches the claimed invention. Tadao et al. teach a resin solution comprising a polyolefin such as polyethylene, polypropylene, etc. The solution is used to coat particles of fertilizers, pesticides, microbiocide, etc. First, it is the position of the examiner that since the resin of the instant invention and the patent are the same, it would contain the same ppm limitation. It is also the position of the examiner that when the volatile substance is removed by any means then the ppm concentration is reduced. It would have been obvious to one of ordinary skill in the art to remove most if not all of the volatile solvent to ensure the proper coating of the resin. With respect to Murayama et al. the argument is the same except applicant further argues that the prior art does not disclose hot draft but rather a heat treatment. It is the position of the examiner that although the process of making the particles is different, the outcome is the same. Applicant must show how the different method results in a different product.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tadao et al. (JP 10-118557).

Tadao et al. discloses a method of coating particles comprising a resin solution. The resin in the resin solution is thermoplastic and can be polyolefin such as polyethylene, polypropylene, etc. [0014]. Paragraph [0015] teaches that inorganic filler represented by talc may be employed in the resin solution. Paragraph [0020] teach the particles to be coated are fertilizers, pesticide, microbiocide, etc. Paragraph [0025] teaches a coating solution for a fertilizer wherein the solvent used in the coating liquid is an organic solvent such as toluene. Figure 1 of the claimed invention discloses a method of coating a particle using a coating apparatus whereby the coated particle is dried using an air heater (12). The prior art does not teach after the degassing process that the concentration of the volatile substances is 500 ppm or less.

It is the position of the examiner that it would have been obvious to one of ordinary skill in the art that when degassing or by allowing the coated particle to air-dry and then apply heat, the concentration of the volatile substances will be greatly reduced to ppm below 500 and in fact it can even be 0. Therefore, the reference meets the second step of the process.

7. Claims 17-27, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murayama et al. (US 4,851,027).

Murayama et al. discloses a coated fertilizer composition. Column 2, lines 40-54 discloses coating a solid fertilizer with a coating material comprising a resin. It is also

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taught that the coating material is a mixture of the resin, a film forming aid, etc. The resin as described in column 4, lines 40-68 are copolymers selected from several species of monomers of which olefin compounds are one. Column 4, lines 29-36 teaches a method of producing the particles by spray coating the particles followed by subjecting the coated fertilizer to heat treatment. The prior art does not teach the degassing process that the concentration of the volatile substances are 500 ppm or less.

It is the position of the examiner that it would have been obvious to one of ordinary skill in the art that when degassing or by allowing the coated particle to air-dry and then apply heat, the concentration of the volatile substances will be greatly reduced to ppm below 500 and in fact it can even be 0. Therefore, the reference meets the second step of the process.

### ***Conclusion***

8. Claims 17 and 19-30 remain rejected.

***Telephone Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is 571-272-0613. The examiner can normally be reached from 8AM to 6:30PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter, can be reached at 571-272-0646. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private Pair system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Konata M. George  
Patent Examiner  
Technology Center 1600

  
Johann Richter, Ph.D., Esq.  
Supervisory Patent Examiner  
Technology Center 1600